

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* *

UNITED STATES OF AMERICA,

Plaintiff(s),

vs.

KELLY CARN,

Defendant(s),

2:13-cr-346-APG-GWF

JUDGE ANDREW P. GORDON
ORDER REGARDING TRIAL

1. Attached hereto is a list of the civil and criminal cases that are presently scheduled for the stacked trial calendar before the **Honorable ANDREW P. GORDON, United States District Judge, at Las Vegas, Nevada**, commencing on Monday, March 31, 2014 at 9:00 a.m. in Courtroom Number #6C.

2. Counsel for all parties in civil and criminal cases, and all *pro se* parties, shall appear in Courtroom Number #6C on Wednesday, March 26, 2014 at 8:45 a.m. for Calendar Call. Unless a party in a civil case or a defendant in a criminal case is appearing *pro se*, the individual parties in civil cases and defendants in criminal cases will not be required to appear for Calendar Call unless the Court directs otherwise.

3. Counsel or their clients will be excused from Calendar Call if settlement papers have been filed in a civil case or a defendant's plea of guilty or *nolo contendere* has been received in a criminal case prior to the date scheduled for Calendar Call.

4. **At Calendar Call**, all cases that remain to be tried will be ranked in order of trial.

1 The Court may schedule a final Pretrial Conference to address outstanding issues including
 2 any pending Motions *in Limine*. Thereafter, the Court will not grant a continuance to any party
 3 absent a showing of good cause. Unless the Court otherwise directs, the cases will be tried one after
 4 the other on **TWENTY-FOUR (24) HOURS'** notice from the Courtroom Administrator.

5 **5. CHANGE OF PLEA HEARINGS IN CRIMINAL CASES.** Hearings for the purpose
 6 of **change of plea** in criminal cases will be set for **CALENDAR CALL** unless otherwise
 7 scheduled. It shall be the *joint* responsibility of counsel for the United States and for the
 8 Defendant to ensure that the plea agreement is emailed to the Courtroom Administrator at
 9 Kandy_Capozzi@nvd.uscourts.gov and a copy faxed to chambers at 868-4941 by **4:00 p.m.** on
 10 the day prior to when the plea of guilty or *nolo contendere* is to be taken. The original plea
 11 agreement shall be provided to the Courtroom Administrator prior to the commencement of the
 12 hearing. It shall further be the responsibility of counsel for the United States to ensure that any
 13 necessary Produce Orders or Writs of Habeas Corpus Ad Prosequendum are timely delivered to
 14 the United States Marshal to ensure the presence of all in-custody defendants for change of plea,
 15 and to ensure proper notification for the attendance of any Court interpreter which may be required
 16 for the particular case.

17 **6. WITNESSES.** Counsel and any parties appearing *pro se* shall immediately subpoena all
 18 witnesses for the time and trial date as listed above. Inasmuch as some cases will be tried in a
 19 trailing fashion, the subpoenas should contain a special instruction from counsel directing witnesses
 20 to contact the **office of counsel** for further instructions prior to appearing for trial. Witnesses are not
 21 required to be present at the Calendar Call.

22 **7. USE OF EVIDENCE DISPLAY EQUIPMENT.** Counsel wishing to utilize the Court's
 23 evidence display equipment must contact the Courtroom Administrator **prior to Calendar Call** to
 24 determine its availability and to arrange for training, if needed.

25 **8. EXHIBITS.** At **Calendar Call**, any party appearing *pro se* shall file with the Courtroom
 26 Administrator in every civil and criminal case a complete exhibit list of all exhibits that are intended
 27 to be used during the trial. **No later than noon (12:00 p.m.) on the day of Calendar Call** counsel
 28 shall electronically file their complete exhibit list. Numerals shall be used to identify all exhibits.

Plaintiff's exhibits shall be marked 1 through 500. Defendant's exhibits shall be marked 501 through 1000. The exhibits list format shall conform to the requirements of the form provided by the Courtroom Administrator or obtained from the Court's website: *www.nvd.uscourts.gov*.

Each exhibit shall be pre-marked with an exhibit sticker. In any case which involves fifteen or more document exhibits, the pre-marked exhibits shall be placed in a loose-leaf binder behind a tab noting the number of each exhibit, and each exhibit shall be pre-marked with an exhibit sticker. The binder shall be clearly marked on the front and side with the case caption and number and the sequence of exhibits. If oversized binders are used, the holes in the documents shall be large-sized so that the pages may be easily turned. At the commencement of trial, counsel shall provide the Courtroom Administrator with the binder containing the exhibits and a courtesy set for the trial judge. *If it is necessary to use more than three binders, the party shall contact the Courtroom Administrator prior to Calendar Call for additional directives.*

9. **PROPOSED JURY VOIR DIRE QUESTIONS.** At Calendar Call, any party appearing *pro se* shall file with the Courtroom Administrator an original and one copy of any proposed jury voir dire questions which they request the Court to pose to prospective jurors at the time of jury selection. **No later than noon (12:00 p.m.) on the day of Calendar Call** *counsel shall electronically file* their proposed jury voir dire questions.

10. **WITNESS LISTS.** At Calendar Call, any party appearing *pro se* shall file with the Courtroom Administrator a list of witnesses expected to be called. **No later than noon (12:00 p.m.) on the day of Calendar Call** *counsel shall electronically file* a list of witnesses expected to be called for use by the Court during jury selection.

11. **STATEMENT OF THE CASE.** At Calendar Call, any party appearing *pro se* in a civil case shall file with the Courtroom Administrator a brief statement of the case, no longer than one-half page, stating the nature of the claims, to be read to prospective jurors at the time of jury selection. **No later than noon (12:00 p.m.) on the day of Calendar Call** *counsel shall electronically file* a **joint** brief statement of the case. In a criminal case, a copy of the Indictment indicating which portions should be read to the jury should be submitted to the Courtroom Administrator at Calendar Call.

12. **JURY INSTRUCTIONS IN CRIMINAL CASES.** No later than noon (12:00 p.m.) on the day of Calendar Call, *counsel are required to electronically file* proposed jury instructions and email a copy in Word format to chambers at APG_Chambers@nvd.uscourts.gov. The parties are further advised that the undersigned district judge has developed his own “stock” or “general” jury instructions drawn principally from the **Manual of Model Criminal Jury Instructions for the Ninth Circuit**. Proposed Instructions submitted by counsel need not include the Court’s “stock” jury instructions. Therefore, the efforts of the parties in preparing the jury instructions in compliance with this Order should be focused on developing special jury instructions which relate to the particular case at issue. All proposed jury instructions submitted by the parties should be concise, understandable, and *neutral* statements of law. Argumentative jury instructions are improper, will not be given, and should not be submitted.

13. **GOVERNMENT’S TRIAL MEMORANDUM.** In all criminal cases, the United States shall submit its original **Government’s Trial Memorandum** under seal at Calendar Call and shall also provide a reading copy for the Court. The Government’s Trial Memorandum shall be served on counsel for Defendant(s) on the date of trial prior to trial commenment and will be unsealed and filed by the Court at that time. Defense counsel may file a Trial Memorandum. Should defense counsel elect to do so, that Trial Memorandum shall be filed and served upon the Government’s counsel prior to the defense commencing its side of the case.

14. **JURY INSTRUCTIONS IN CIVIL CASES.** In all civil cases to be tried before a jury, counsel and any parties appearing *pro se* are required to file one set of *jointly* agreed-upon jury instructions and form of verdict **no later than noon (12:00 p.m.) on the day of Calendar Call**. To meet this requirement, the parties are required to file their individual proposed jury instructions and serve those upon each other **at least two weeks prior to trial,** and to thereafter confer to arrive at a single set of jointly agreed upon jury instructions. To the extent the parties are unable to agree as to the form of any particular instruction(s), each party shall also file the jury instruction(s) which are not agreed upon, together with the respective arguments and authorities in support of each.

The parties are further advised that the undersigned district judge has developed his own “stock” or “general” jury instructions drawn principally from the **Manual of Model Civil Jury**

Instructions for the Ninth Circuit. Proposed instructions submitted by counsel need not include the Court's "stock" instructions. Therefore, the efforts of the parties in preparing the jury instructions in compliance with this Order should be focused on developing special jury instructions which relate to the particular claims and defenses at issue, as well as those relating to damages and any special evidentiary matters pertinent to the case. All proposed jury instructions submitted by the parties should be concise, understandable, and neutral statements of law. Argumentative jury instructions are improper, will not be given, and should not be submitted. Additionally, counsel shall email a copy of all proposed jury instructions in Word format to chambers at APG_Chambers@nvd.uscourts.gov.

15. TRIAL BRIEFS, PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW IN CIVIL CASES. Any party appearing *pro se* shall file an original and two copies of a trial brief in all civil cases **at Calendar Call**. In all civil cases to be tried before the Court sitting without a jury, any party appearing *pro se* shall additionally file an original and two copies of proposed Findings of Fact and Conclusions of Law **at Calendar Call. No later than noon (12:00 p.m.) on the day of Calendar Call**, counsel shall electronically file their trial brief. Additionally, in all civil cases to be tried before the Court sitting without a jury, the parties shall electronically file proposed Findings of Fact and Conclusions of Law **no later than noon (12:00 p.m.) on the day of Calendar Call**.

16. EXPEDITED OR DAILY TRANSCRIPTS. Any party that will require expedited or daily transcripts shall *notify the Court Reporter, Heather Newman, at 702-464-5828 immediately upon receipt of this order*. Failure to timely notify the Reporter may result in the refusal to provide expedited or daily transcripts.

17. SANCTIONS. As provided for under the Local Rules of Practice of this Court, the Court will consider the imposition of sanctions against any attorney or party appearing *pro se* who: (1) fails to timely file trial briefs, suggested *voir dire* questions and proposed jury instructions or proposed Findings of Fact and Conclusions of Law, whichever is applicable, as prescribed by this Order or any Order establishing the time for such filings; (2) fails to comply with the provisions of this Order, including but not limited to the failure to appear for Calendar Call without first having

1 been excused by the Court or the Courtroom Administrator with the permission of the Court; or (3)
2 fails to timely comply with any other Order that schedules deadlines for trial preparation.


3 18. **TRIAL JUDGE.** Although the cases listed on the attached trial calendar are assigned
4 to the undersigned, cases may proceed to trial before another District Court Judge for the District of
5 Nevada or a visiting District Court Judge.

6 19. **CONSENT TO TRIAL BEFORE A MAGISTRATE JUDGE.** All parties in civil
7 actions are reminded of their right, subject to the approval of the undersigned, to consent to trial
8 before a United States Magistrate Judge pursuant to Title 28, United States Code, Section 636(c)(2).
9 The right to proceed before a magistrate judge in a civil case includes those cases which will be tried
10 before a jury as well as those cases to be tried before the Court sitting without a jury. Any appeal
11 from a judgment resulting in a trial before a magistrate judge shall be taken directly to the United
12 States Court of Appeals.

13 19. **CONTACT PERSON.** All questions and information regarding the trial calendar are
14 to be directed to Kandy Capozzi, Courtroom Administrator at Kandy_Capozzi@nvd.uscourts.gov
15 or 702-464-5432 .

16 20. **THE DATE** of the Clerk's file mark shall constitute the date of this Order.

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18 IT IS SO ORDERED.

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21 ANDREW P. GORDON
22 UNITED STATES DISTRICT JUDGE
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TRIAL CALENDAR OF THE HONORABLE ANDREW P. GORDON, UNITED STATES DISTRICT JUDGE, AT LAS VEGAS, NEVADA, COMMENCING ON **MONDAY, MARCH 31, 2014 AT 9:00 A.M.**, WITH CALENDAR CALL SET FOR **WEDNESDAY, MARCH 26, 2014 AT 8:45 AM** COURTROOM 6C.

1. 2:11-cr-334-APG-GWF	UNITED STATES OF AMERICA vs. TRACEY BROWN	CUSTODY
Jury Trial (Estimated __ Day)	5-Count Indictment: 18 USC §§ 951(1); 924(c)(1)(A); 922(g)91) and 924(a)(2); 2	
For Plaintiff: Cristina Silva, AUSA 388-6336	For Defendant: Thomas Pitaro, Retained 382-9221	

Motion to Dismiss Counsel and Motion to Withdraw as Counsel Pending

2. 2:12-cr-237-APG-CWH	UNITED STATES OF AMERICA vs. DAVID DURAN, <i>aka Tony</i>	PR BOND
<i>Prior Disposition of Co-Defendants</i>		
Jury Trial (Estimated __ Day)	4-Count Indictment: 18 USC §§ 371; 1952(a)(2); 924(c); 2	
For Plaintiff: Cristina Silva, AUSA Phillip Smith, AUSA 388-6336	For Defendant: Charles Kelly, Appointed 385-1327	

3. 2:12-cr-327-APG-VCF	UNITED STATES OF AMERICA vs. GREGORY J. OLSON	PR BOND
Jury Trial (Estimated __ Day)	5-Count Indictment: 18 USC § 1343; 26 USC § 7206(1)	
For Plaintiff: Brian Pugh, AUSA 388-6336	For Defendant: Paul Riddle, AFPD 388-6577	

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4. 2:12-cr-475-APG-CWH

UNITED STATES OF AMERICA

vs.

FERNANDO AYON-MORENO,*
aka Feliciano Ayala-Moreno

CUSTODY

**Prior Disposition of Co-Defendants*

Jury Trial (Estimated __ Day)

4-Count Indictment (*charged in Counts 3 and 4 only*)
21 USC §§ 846 & 841(a)(1) , (b)(1)(A)(viii);
841(a)(1), (b)(1)(A)(viii); 2**For Plaintiff:**Amber Craig, AUSA
388-6336**For Defendant:**Randall J. Roske, Appointed
386-0313**Spanish Interpreter Required**

5. 2:13-cr-84-APG-PAL

UNITED STATES OF AMERICA

vs.

SCOTT WHEELER

PR BOND

Jury Trial (Estimated __ Day)

1-Count Indictment:
21 USC §§ 841(a)(1) and (b)(1)(A)(Viii)**For Plaintiff:**Amber Craig, AUSA
388-6336**For Defendant:**Rachel Korenblat, AFD
388-6577**Suppression Hearing Scheduled 5/27/13**

6. 2:13-cr-241-APG-VCF

UNITED STATES OF AMERICA

vs.

UDELL WICKHAM
JEREMY HALGAT

PR BOND

PR BOND

Jury Trial (Estimated __ Day)

5-Count Indictment:
21 USC §§ 846; 841(a)(1) & (b)(1)(C)**For Plaintiff:**Andrew Duncan, AUSA
Cristina Silva, AUSA
388-6336**For Defendants:**Richard Boulware, AFD for Wickham
388-6577Melaine Hill, Appointed for Halgat
362-8500

7. 2:13-cr-346-APG-GWF

UNITED STATES OF AMERICA

vs.

KELLY CARN

PR BOND

Jury Trial (Estimated __ Day)

15-Count Indictment:
26 USC §§ 5812, 5861(b), 5871; 5848(b), 5861(1), 5871;
5841, 5861(d), 5871**For Plaintiff:**Andrew Duncan, AUSA
388-6336**For Defendant:**Osvaldo Fumo, Retained
474-7554

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8. 2:13-cr-366-APG-GWF

UNITED STATES OF AMERICA

vs.

ANTHONY VALENZUELA

STATE CUSTODY

Jury Trial (Estimated __ Day)

1-Count Indictment:
18 USC §§ 1001; 2**For Plaintiff:**Robert Knief, AUSA
388-6336**For Defendant:**Paul Riddle, AFD
388-6577

9. 2:13-cr-410-APG-PAL

UNITED STATES OF AMERICA

vs.

PRUDENCIO VALDEZ-SANCHEZ

CUSTODY

Jury Trial (Estimated __ Day)

1-Count Indictment:
8 USC § 1326**For Plaintiff:**Robert Bork, AUSA
388-6336**For Defendants:**Brenda Weksler, AFD
388-6577***Spanish Interpreter Required***

9. 2:13-cr-413-APG-PAL

UNITED STATES OF AMERICA

vs.

LUIS PINEDA-GUTIERREZ

CUSTODY

Jury Trial (Estimated __ Day)

1-Count Indictment:
8 USC § 1326**For Plaintiff:**Robert Bork, AUSA
388-6336**For Defendants:**Monique Kirtley, AFD
388-6577***Spanish Interpreter Required***

10. 2:14-cr-24-APG-NJK

UNITED STATES OF AMERICA

vs.

CHACE DEAN SANDERS

CUSTODY

Jury Trial (Estimated __ Day)

1-Count Indictment:
18 USC §§ 922(g)(1) and 924(a)(2)**For Plaintiff:**Phillip Smith, AUSA
388-6336**For Defendants:**Andrew M. Leavitt (Retained)
Robert F. Purdy (Retained)
382-7438